

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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HOWARD GISSINGER et al.,

Plaintiffs,

- against -

NEW PAO YUNG ENTERPRISE CO., LTD.,

Defendant.

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HOWARD GISSINGER et al.,

Plaintiffs,

- against -

PAO YUNG,

Defendant.

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**ORDER**

CV 04-5406 (BMC) (JO)

**ORDER**

CV 04-0534 (BMC) (JO)

**JAMES ORENSTEIN, Magistrate Judge:**

By letter dated January 19, 2007, Esther Gissinger, one of the plaintiffs in these actions, filed a letter seeking reconsideration of my December 22, 2006 order denying a further delay of the scheduled damages inquest. Docket Entry ("DE") 36, filed solely on the docket sheet for CV 04-534. The application for reconsideration is untimely, in that it was filed well after the ten-day period for seeking reconsideration had elapsed. In addition, with respect to Mr. Gissinger's appearance, there is no new information that was not before me at the time of my original decision, only additional detail about his unavailability that could have been brought to my attention in any event.

With respect to the availability of Dr. Sasson, it is not clear if the fact that he is now unavailable is a recent development or something that counsel simply failed to bring to my attention earlier. If it is the latter, it is not a basis for reconsideration. If the former, then it was the plaintiffs' counsel's responsibility to ensure that the witness would be available, by issuance of a subpoena if necessary, on the hearing date that I scheduled at the plaintiffs' request and on the basis of counsel's representation that all witnesses would then be available.

For all of the reasons set forth above, the application is denied. If, as a result of the foregoing, the plaintiffs have no witnesses to present at the inquest on January 23, 2007, they must so advise me by 5:00 p.m. on January 22, 2007. To ensure adequate notice, I direct the plaintiffs' counsel immediately to serve a copy of this order and the underlying application on each defaulting defendant and to electronically file a certificate attesting to such service.

**SO ORDERED.**

Dated: Brooklyn, New York  
January 22, 2007

/s/ James Orenstein  
JAMES ORENSTEIN  
U.S. Magistrate Judge